

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT BELL JR.,)
Petitioner,)
v.) No. 1:09CV90 LMB
TROY STEELE,)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Because petitioner is not entitled to the relief he seeks, the Court will summarily dismiss the petition.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

Petitioner raises seven grounds for relief in his petition, all of which challenge the conditions of confinement at Southeast Correctional Center. Conditions of confinement claims are not cognizable in habeas corpus proceedings. *E.g., Kruger v. Erickson*, 77 F.3d 1071, 1073 (8th Cir. 1996). As a result, the petition fails to state a claim upon which relief can be granted.

Furthermore, the Court notes that petitioner has attempted to bring these or similar claims under 42 U.S.C. § 1983 recently, but he has not been permitted to proceed in forma pauperis because he has incurred three “strikes” under 28 U.S.C. § 1915(g). *See Warmack v. Steele*, 1:09CV23 CDP (E.D. Mo.). It appears that petitioner is currently attempting to circumvent § 1915(g) by titling his action as coming under 28 U.S.C. § 2254 rather than 42 U.S.C. § 1983. This is not permissible.

Accordingly,

IT IS HEREBY ORDERED that petitioner’s motion to proceed in forma pauperis [#2] is **GRANTED**.

IT IS FURTHER ORDERED that petitioner’s petition for writ of habeas corpus is **DISMISSED**.

An Order of Dismissal shall accompany this Memorandum and Order.

Dated this 29th day of July, 2009.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE